

1 **BAY STATE GAS COMPANY RATE CASE**

2 **D.T.E. 05-27**

3 **DIRECT TESTIMONY OF NANCY BROCKWAY**

4 **ON BEHALF OF LOCAL 273, U.W.U.A.**

5 Exh. _____

6 Marked: _____

7
8
9 **Q. PLEASE STATE YOUR NAME, AFFILIATION AND ADDRESS.**

10 A. My name is Nancy Brockway. I am the principal of NBrockway & Associates, 10
11 Allen Street, Boston, MA 02131.

12 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

13 A. On behalf of Local 273, Utility Workers of America.

14 **Q. PLEASE DESCRIBE YOUR QUALIFICATIONS.**

15 A. Since 1983, my professional focus has been the energy and utility industries, with
16 particular attention to the role of regulation in the protection of consumers and the
17 environment. I was a member of the staff of the Maine Public Utilities
18 Commission from 1983 to 1986. I joined the Department of Public Utilities (now
19 Department of Telecommunications and Energy) in 1986 as a staff attorney and
20 hearing officer. I became Assistant General Counsel, and in 1989 I was appointed
21 General Counsel, a position I held until 1991.

22 From 1991 until 1998, I was a consultant and expert witness for low-
23 income consumers, with the National Consumer Law Center. I testified on
24 restructuring, rate design, energy efficiency, consumer protection and other issues
25 before a number of state regulatory commissions.

1 In October, 1998, I was appointed to the New Hampshire Public Utilities
2 Commission by Governor Jeanne Shaheen. I served as a Commissioner until
3 October 2003. While on the New Hampshire Commission, I was a member of
4 several NARUC committees, including the Committee on Energy Resources and
5 the Environment, the Telecommunications Committee and the Ad Hoc
6 Committees on Committee Structure and on Competition in the Electric Industry.
7 I was Vice-Chair of the Committee on Consumer Affairs. I also served as Chair
8 of the NECPUC Committee on Consumer Affairs, and was a member of the
9 FCC's Joint Committee on Accounting and the North American Numbering
10 Council. I also served on the Board of Directors of NBANC (North America
11 Billing and Collection, the agency that collects fees charged to administer the
12 North American Numbering System) and the Steering Committee of the National
13 Council on Competition in the Electric Industry.

14 Since leaving the New Hampshire Commission, I have provided
15 representation and consulting services to the Kansas, Ohio, Delaware, Hawaii and
16 Vermont commissions, and the Utility and Review Board of Nova Scotia. I have
17 provided consulting services for the New Jersey Division of the Ratepayer
18 Advocate, and the Massachusetts Low Income Energy Advocacy Network.

19 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20 A. The purpose of my testimony is to describe a number of ways in which Bay State
21 has failed to provide prudent management, describe the impacts Bay State's poor
22 management has had on its customers and other stakeholders, and recommend

1 actions for the Department to take to ensure that such inadequate management
2 does not persist.

3 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

4 A. My testimony will discuss the following areas in which I believe the Company
5 has not served its customers and other stakeholders well: customer service,
6 reliability, system expansion, staffing, low-income protections and energy
7 efficiency programs, cost of service, including Metscan costs; and the testimony
8 will also discuss the need for vigorous oversight of Bay State, particularly in light
9 of its position in the NiSource family of companies. I recommend that the
10 Department set staffing benchmarks such that Massachusetts employment be
11 maintained at current levels unless and until the Company demonstrates to the
12 satisfaction of the Department that any staffing reductions or outsourcing are
13 consistent with all collective bargaining agreements, and will not put service
14 quality and reliability at risk. I conclude my testimony with a recommendation
15 that the Department set the equity return for the Company at the bottom of the
16 range of reasonable returns, in recognition of the Company's failures to meet its
17 obligations.

18
19

CUSTOMER SERVICE

Q. WHAT CUSTOMER SERVICE ISSUES ARE OF PARTICULAR CONCERN IN THE CASE OF BAY STATE?

A. Bay State has not adequately managed its call center in Springfield, Massachusetts. As a result, customers have had difficulty reaching the Company to resolve questions. Bay State closed its walk-in customer service facilities, causing difficulties for many customers, and putting added burdens on the call center. In addition, Bay State customers have complained of estimated meter reads and billing problems.

Q. WHY IS CALL CENTER PERFORMANCE IMPORTANT FOR A GAS UTILITY?

A. Customers need and want to be able to communicate with the company easily, in order to (a) alert the company to gas odors or other safety concerns, (b) discuss and resolve questions about their usage, metering, billing, payment and related matters, (c) arrange to start or end services, and (d) obtain information. In order for such communications to take place, the company needs to maintain a variety of modes of communication, addressing the particular communications needs of its different customers.

To fulfill its communications obligations, the company must maintain one or more call centers, staffed with knowledgeable customer service representatives who are authorized to address the customer's problems or questions. The company must have sufficient staff and call-receiving capability so as to handle the ordinary volume of calls of various types, as well as the occasional peak loads, when it may be anticipated that a large number of callers will attempt to get through at the same time.

1 **Q. WHY ARE WALK-IN FACILITIES IMPORTANT FOR A UTILITY?**

2 A. For many customers, the ability to speak face-to-face with a
3 knowledgeable representative of the Company is important. They may have
4 difficulty using the telephone, or their issue may be harder to resolve through the
5 more impersonal mode of a telephone contact. Some customers do not have ready
6 access to a telephone. In addition, for a significant percentage of customers,
7 paying in person at a walk-in center is the most convenient way to pay their bills.

8 **Q. HOW DOES THE DEPARTMENT GAUGE THE QUALITY OF BAY STATE'S**
9 **CUSTOMER SERVICE?**

10 A. Under Bay State's current Service Quality Plan, Bay State is measured
11 along 8 criteria of customer service:

- 12 1) Same Day Appointments;
13 2) Department Cases per 1000 Customers;
14 3) DAW Injury Rate/Lost Time Incidents;
15 4) One Hour Responses to Odor Calls;
16 5) Billing Adjustments per 1000 Customers;
17 6) Telephone Calls Answered Within 30 Seconds;
18 7) Emergency Calls Answered Within 20 Seconds;
19 8) Actual On-Time Meter Reading
20

21 **Q. MR. BRYANT, TESTIFYING FOR THE COMPANY, STATES THAT THE METRIC FOR**
22 **TIME OF ANSWERING EMERGENCY CALLS IS DEFINED BASED ON THE**
23 **PERCENTAGE OF CALLS ANSWERED WITHIN 30 SECONDS, BUT YOU SAY THE**
24 **STANDARD CALLS FOR THE PERCENTAGE ANSWERED WITHIN 20 SECONDS.**
25 **WHICH OF YOU IS CORRECT?**

26 A. The standard for answering emergency calls is measured on the basis of
27 the percent answered within 20 seconds. Bay State lacked the capacity to
28 measure this metric before 2002, and sought an exemption from the Department
29 to spare it from having to upgrade its call time measuring system to incorporate
30 this feature. In a letter order dated May 28, 2002 in the Department's generic

1 service quality docket, D.T.E. 99-84, the Department rejected Bay State's request.
2 The Department noted the small cost to make the upgrade (approximately 0.18
3 percent of annual capital additions), and the importance of answering emergency
4 calls rapidly.

5 **Q. WHAT DID THE DEPARTMENT SAY CONCERNING BAY STATE'S REQUEST TO BE**
6 **EXEMPTED FROM REPORTING TIMELINESS OF EMERGENCY CALLS ANSWERED**
7 **WITHIN 20 SECONDS?**

8 A. The Department observed that Bay State had failed to justify its request:

9 Bay State's proposal provides neither a reasonable time period for
10 resolution of the problem nor even a plan to identify a solution to this
11 problem. Moreover, the Company presented no evidence that the cost to
12 update the system is too costly for a company of Bay State's size and asset
13 base. Bay State's operating revenues are \$394 million and its plant
14 investment is \$1.226 billion (including annual capital additions of \$33
15 million). Therefore, the Department rejects Bay State's proposal
16 regarding the Telephone Service Factor. (May 28, 2002 letter order at 2,
17 footnotes omitted).
18

19 **Q. HOW ARE THE BENCHMARKS FOR BAY STATE'S SERVICE QUALITY METRICS**
20 **DEVELOPED?**

21 A. Pursuant to the Department's generic service quality order in D.T.E. 99-
22 84, target benchmarks for a utility's service quality performance are developed
23 based on the 10-year rolling mean (average) of the utility's performance for each
24 metric over the most recent ten years, where comparable data is available for the
25 entire period. If ten years of data are not available, but at least three years' data
26 are available, target benchmarks are established using such data as is available for
27 at least the most recent three years. In such cases, the target (mean) and standard
28 deviation are updated each year, as more data becomes available, until ten years
29 of data are available.

1 **Q. BEFORE CALENDAR YEAR 2002, WHEN THE GENERIC STANDARDS TOOK EFFECT,**
2 **HOW WAS THE COMPANY'S SERVICE QUALITY MEASURED?**

3 A. Bay State was measured against similar types of standards. In Docket
4 DPU/D.T.E. 97-97, the Department approved a Service Quality Index as part of
5 the Settlement of Bay State's rate case. In NIPSCo-Bay State Acquisition, D.T.E.
6 98-31 (1998), the Department directed Bay State to maintain its then-current SQI
7 plan until 2004, unless a new plan was approved by the Department. On August
8 17, 1999, Bay State filed a new SQI plan for Department review and approval.
9 This matter was docketed as D.T.E. 99-72. Later in 1999, the Department opened
10 Docket 99-84, a generic investigation into proposed service quality regulations.
11 In its Notice of Inquiry, the Department noted that it would take no further action
12 on docket D.T.E. 99-72 until the conclusion of the generic investigation. Thus,
13 the SQI plan approved in the merger, initially established in D.T.E. 97-97, was in
14 place until the Department issued its orders in the generic investigation, replacing
15 that plan with the requirements applicable to all utilities.

16 **Q. PLEASE DESCRIBE THE SERVICE QUALITY METRICS IN PLACE BEFORE THE**
17 **MERGER WITH NiSOURCE.**

18 A. Under the SQI approved in the NiSource merger docket, the targets and
19 measures for Bay State's service quality were as follows:

- 20 i. **Customer Satisfaction Survey:** 94 % of respondents in FY
21 1998, and 94.5 % in FY 1999 indicating that Bay State met or
22 exceeded expectations.
- 23 ii. **Service Appointments Kept:** 94 % in FY 1998 and 94.5 % in
24 FY 1999 of service appointments met on the same day
25 scheduled.
- 26 iii. **Complaints to Department:** No more than 1.4 customer
27 complaint cases per 1000 before the Department for both years
28 (with a 10 percent no-penalty bandwidth).

- iv. **Lost Time Incidents:** Bay State's current three-year average not exceeding the previous year's three-year average for lost time incidents per 100 employees.
- v. **Time to Respond to Odor Calls:** 95 % of odor calls responded to in one hour or less for both years.
- vi. **Third Party Main Damage:** Bay State's current year of main and service incidents due to third parties not exceeding the previous year's three-year average.
- vii. **Call Response Time:** 95 % of emergency calls and 80 percent of service and billing telephone calls answered within 30 seconds in both years, and
- viii. **On-Cycle Meter Reading:** 88 % in FY 1998 and 89 % in FY 1999 of actual on-cycle meter readings.

Q. WHAT WERE THE CONSEQUENCES OF FAILURE TO MEET THE D.T.E. 97-97 SQI STANDARDS?

A. Failure to meet each of these goals would carry a maximum penalty of \$250,000 per measure, or a total maximum penalty of \$2.0 million. For each measure, one-fourth of the maximum penalty would be assessed for each percentage point (or any portion thereof) that the Company's performance fell short of the target. The Settlement also provided a link between the Company's service quality performance and its earnings sharing mechanism, under which additional adverse consequences would flow from failing to meet all the measures, or a level of failure on any one measure that triggered a double penalty.

Q. HAS BAY STATE CONSISTENTLY MET OR EXCEEDED ITS SERVICE QUALITY BENCHMARKS?

A. No. Bay State has typically met the benchmarks that are set on an annual basis, but on a number of occasions, Bay State has failed to meet minimum service quality standards in New Hampshire, where benchmarks are measured monthly, and 80% of calls must be answered in 30 seconds. Beginning in February 2002, according to the Company, it had poor call center performance

1 when new employees were being trained. For 6 months in 2003, Bay State's call
2 answering times dropped to extremely low levels. There have been other periods
3 of call center problems for one or more metric.

4 **Q. PLEASE DESCRIBE THE PROBLEMS WITH BAY STATE'S SERVICE QUALITY IN THE**
5 **FIRST HALF OF 2003.**

6 A. As can be shown from the chart below, from January through June, 2003,
7 Bay State's percent of non-emergency calls answered within 30 seconds was
8 considerably below 70%:

Month	Answers W/in 30 Sec.
January	58.3
February	46.6
March	44.9
April	59.6
May	59.4
June	69.8

9

10 **Q. WERE THERE OTHER BAY STATE CALL CENTER PROBLEMS DURING THIS**
11 **PERIOD?**

12 A. Yes. The inability of customers to get through to the Springfield call
13 center was reflected in poor results along a number of measures. The percent of
14 calls that got a busy signal, usually 1/10 of 1 percent or less, shot up to 4% or
15 greater. In addition, the average speed of answering dragged out considerably.

2003 Month	Ave. Ans. Speed: Billing (Minutes)	Ave. Ans. Speed: Service (Minutes)	Ave. Ans. Speed: Credit (Minutes)
January	1.6	1.7	1.6
February	3.1	3.6	2.6
March	5.9	3.7	5.7
April	4.4	2.2	3.2
May	4.0	1.9	3.6
June	1.5	1.1	2.1

16

17

1 **Q. CAN YOU PUT THESE AVERAGE ANSWERING TIMES INTO PERSPECTIVE?**

2 A. Consider that the average length of a song played on pop radio is three
3 minutes. In March 2003, then, customers who selected the CSR option on the
4 Bay State IVR had to wait through the equivalent of at least two playings of “We
5 Belong Together” sung by Mariah Carey, before a customer service representative
6 came on the line.

7 **Q. HOW DOES BAY STATE MEASURE ANSWERING TIMES?**

8 A. The Department standards require that utilities report the percentage of
9 telephone calls that are “answered by a human voice by the company's employee,
10 contractor, or agent (and not by a recorded message)” within the required time
11 period. According to Bay State’s Service Quality Manual, non-emergency calls
12 are measured beginning at the point that the caller makes a service selection, and
13 ending at the point that the call is responded to by the service area selected by the
14 caller. If the caller does not make a selection, the response time is measured from
15 a point following the completion of the Company’s recorded menu options and
16 ending at the point that a customer-service representative responds to the call. For
17 emergency calls, the Company’s manual states that such calls are measured
18 beginning at the point that the caller makes a selection and ending at the point that
19 the call is responded to by the service area selected by the caller or at the point
20 that a customer service representative responds to the call.

1 **Q. ARE THERE ANY ASPECTS OF THE BAY STATE CALL TIME DEFINITIONS THAT**
2 **BEAR PARTICULAR CONSIDERATION?**

3 A. Yes. In the service quality reports of Bay State's subsidiary to the New
4 Hampshire Public Utilities Commission, Northern Utilities stated that call answer
5 time for IVR-only calls was assumed to be zero.

6 **Q. WHY ARE CALL CENTER STATISTICS FOR NEW HAMPSHIRE CUSTOMERS**
7 **RELEVANT TO MASSACHUSETTS CUSTOMER EXPERIENCE?**

8 A. Bay State runs a single call center for its customers in New England.
9 Most of its call center statistics do not differentiate on the basis of the location of
10 the customer. The statistics I discuss here were reported by Bay State on a
11 consolidated basis for Massachusetts, New Hampshire and Maine customers.

12 **Q. WHAT IS THE IMPACT OF COUNTING CALLS HANDLED BY THE IVR AS BEING**
13 **ANSWERED IN ZERO SECONDS?**

14 A. This approach assumes that customers are equally satisfied with the use of
15 an IVR as with the ability to talk to a human being, and that therefore calls in
16 which a customer does not hang up and does use the IVR should be counted as
17 having been answered as soon as the IVR message plays.

18 **Q. IS THIS ASSUMPTION REASONABLE?**

19 A. No. It is true that some customers actually appreciate the convenience of
20 handling their inquiries or other matters in a completely automated fashion, so the
21 assumption does hold true for some customers. However, it is likely that other
22 customers are frustrated in trying to reach a human voice, and have given up
23 trying to go that route, however preferable to them. Inclusion of the IVR-handled
24 call time at zero seconds, and thereby lowering the derived time of answering

1 (under the Department's definition), probably gives an overly positive view of the
2 experience of customers who would prefer to have the option of human contact.

3 **Q. WHAT DOES THE LONG ANSWERING TIME REVEAL ABOUT BAY STATE'S**
4 **CUSTOMER SERVICE DURING THIS PERIOD?**

5 A. Even counting IVR-handled calls at zero time, there were excessively long
6 waiting times. Customers with questions about the accuracy of their bills,
7 customers who needed non-emergency utility servicing, customers who needed to
8 negotiate a payment plan, and others, were forced to wait for long periods of time
9 before their calls were answered.

10 **Q. WERE ALL THE CUSTOMERS WHO DID GET THROUGH ABLE TO HAVE THEIR**
11 **CONCERNS ADDRESSED?**

12 A. No. In early 2003, at peak calling times, live telephone service
13 representatives would answer the phone but advise callers that the Company was
14 experiencing an unusual volume of calls and would need to call the customer
15 back. If a customer was willing, the representative took their name and number to
16 be called back later. These calls were nonetheless counted as if the customer's
17 call was handled at the time of the call, thus distorting the significance of the
18 average answer time statistic.

19 **Q. WHAT OTHER PROBLEMS DID CUSTOMERS EXPERIENCE?**

20 A. The average time a customer waited, before abandoning the attempt to be
21 connected at the call center, rose to very high levels in early 2003:

Month	Ave. Time to Abandonment
January	5 minutes
February	9 minutes
March	11 minutes
April	12 minutes
May	11 minutes
June	10 minutes

1 Clearly customers had a pressing need to get through to the call center,
2 because they held on for extremely long times.

3 **Q. WERE THERE ANY OTHER ADVERSE CONSEQUENCES OF CUSTOMERS'**
4 **DIFFICULTY IN REACHING THE CALL CENTER?**

5 A. Yes. Below, I discuss impacts on the Company's emergency call
6 response. In addition I would note that, not surprisingly, during this period the
7 average number of calls abandoned was very high, as can be seen in the chart
8 below:

Month	Ave. No. Calls Abandoned
January	225
February	340
March	334
April	257
May	415
June	260

9

10 **Q. WHY DO YOU SAY THAT AN UNUSUALLY HIGH NUMBER OF CALLS TO THE CALL**
11 **CENTER WERE ABANDONED IN THE FIRST HALF OF 2003?**

12 A. In July 2003, the number of abandoned calls dropped to under 50, and
13 basically remained at or below that level until December 2003. This experience
14 demonstrates that Bay State is capable of operating a call center such that all but a
15 very small number of calls are abandoned by customers.

16 **Q. WHY DO CUSTOMERS ABANDON CALLS?**

17 A. Customers typically abandon calls because they are unable or unwilling to
18 wait as long as it takes to make the connection.

19 **Q. WAS THE FIRST HALF OF 2003 AN ANOMALY?**

20 A. No. Large numbers of Bay State customers have abandoned efforts to
21 contact the call center in other months. For example, in October 2002, 3,783 calls

1 were abandoned. Throughout 2004, thousands of call attempts to Bay State's call
2 center were abandoned.

3 **Q. WHAT HAS BEEN BAY STATE'S RECENT EXPERIENCE WITH CALL**
4 **ABANDONMENT?**

5 A. According to monthly call center reports provided to the New Hampshire
6 Public Utilities Commission, beginning again in December 2003, and jumping to
7 alarming levels in January 2004, large numbers of calls to Bay State's call center
8 have been abandoned in each month for which data is available.

9

Month	# Calls Abandoned	Month	# Calls Abandoned
12/03	251	9/04	1130
1/04	2450	10/04	1215
2/04	2129	11/04	730
3/04	2433	12/04	266
4/04	966	1/05	696
5/04	1801	2/05	858
6/04	1093	3/05	814
7/04	756	4/05	603
8/04	1156		

10

11 The call abandonment levels from January 2003 through the first quarter of 2005
12 are graphically displayed below:

13

14

15

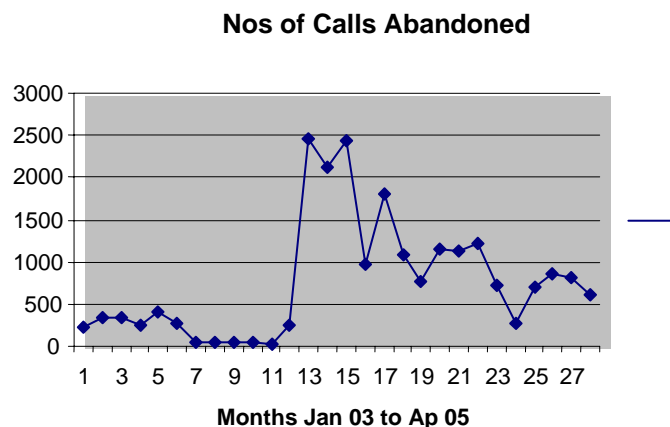
16

17

18

19

20



1 **Q. WHAT CAN BE SEEN FROM REVIEWING THIS CHART?**

2 A. The Bay State call center problems did not end in June 2003. For many
3 months in 2004, very high numbers of customers abandoned their efforts to get
4 through to the call center.

5 **Q. CAN YOU EXPLAIN THESE HIGH LEVELS OF CALL ABANDONMENT?**

6 A. No. While for the most part reported percentages of calls answered within
7 30 seconds rose to acceptable levels after June 2003, nonetheless some difficulty
8 with getting through to the call center was inducing large numbers of customers to
9 abandon their efforts to reach the Company through the call center. As the
10 average time before abandonment did not increase, it is difficult to understand
11 why customers gave up on their efforts to get through. What is clear, however, is
12 that large numbers of customers did just that.

13 **Q. HOW HAS BAY STATE EXPLAINED TO THE DEPARTMENT ITS PROBLEMS WITH**
14 **ITS CALL CENTER?**

15 A. In Bay State's report to the Department of service quality "problems and
16 fixes" for 2002 to 2003, the Company stated that its call center performance in
17 both 2002 and 2003 was negatively affected by "staffing-related issues at its
18 Contact Center in Springfield." Further, in the winter of 2002-2003, according to
19 Bay State, Contact Center performance was significantly impacted by an
20 increased level of calls attributable to colder-than-normal weather, which resulted
21 in higher bills, and in turn higher uncollectibles.

22

23

1 **Q. DOES THIS EXPLANATION ANSWER ALL THE QUESTIONS ABOUT WHY CALL**
2 **CENTER PERFORMANCE HAS BEEN POOR?**

3 A. No. Call center performance has been poor in periods before the staffing-
4 related issues arose, and since the time Bay State claims they were addressed. In
5 addition, the poor call center performance during the period explored above
6 reflects adversely on the Company's management of its call center function.
7 Either local management failed to ask early enough for enough resources to do the
8 job, or they did and NiSource failed to authorize sufficient staff. I understand that
9 Mr. Bryant was involved in the efforts to increase call center staffing levels , and
10 may have had difficulty getting his requests promptly approved. Either way, the
11 Company failed to staff properly and as a result failed to meet its service quality
12 obligations.

13 **Q. HOW DID BAY STATE RESPOND TO THE NEED FOR NEW STAFF BEGINNING IN**
14 **FEBRUARY 2002?**

15 A. In April, 2002, the Company hired 18 new, temporary CSRs to handle
16 credit and collection calls. Bay State attributes its drop in call performance
17 between March and April 2002 to the fact that the new, temporary employees
18 were being trained during this period, according to its Service Quality Report for
19 CY 2002. Bay State reported that call response time did improve between May
20 and July 2002 as a result of both a reduction in the overall call volume and the
21 additional CSR's becoming more proficient at their job. In August 2002, the
22 Company hired four of the 18 temporary CSRs on a permanent, full-time basis.
23 In addition, the Contact Center hired two additional internal candidates in October
24 2002, for a total of 6 hires to replace 10 employees terminated in February. The

1 Company also evidently made a number of process improvements related to the
2 Springfield Contact Center, including the addition of another T-1 telephone line,
3 and adopted a new workforce management system to enable more effective CSR
4 scheduling. Also, the Company installed a new IVR system in April 2003, hoping
5 that more customers would use the automated system, rather than needing to talk
6 with a CSR.

7 **Q. BY FEBRUARY, 2003, HOW MANY FULL-TIME EQUIVALENT CSRs WERE IN**
8 **PLACE AT THE CALL CENTER IN SPRINGFIELD?**

9 A. As noted in the CY 2002 Service Quality Report, by February 2003, the
10 Company had 53.5 FTE CSRs in place at its call center.

11 **Q. WAS THIS A SUFFICIENT NUMBER OF CSRs TO HANDLE THE LOAD?**

12 A. No. Long wait times, relatively large numbers of busy-out calls, and high
13 call abandonment rates persisted, as I have discussed. Also, according to the CY
14 2002 Service Quality Report, the additional T-1 telephone line installed by the
15 Company in 2002 put “additional pressure on the Contact Center by increasing
16 the number of calls that need to be handled by CSRs,” according to Bay State.
17 The Company eventually determined that 67.75 FTE CSRs (50 full time, 22 part-
18 time) were required for the Contact Center. By the time Bay State obtained
19 authorization from NiSource to staff up to this level, and hired an additional 8
20 new, part-time CSRs, it was the fall of 2003.

21 **Q. UNDER THE DEPARTMENT’S SERVICE QUALITY RULES, BAY STATE NEED NOT**
22 **MEET A STANDARD HIGHER THAN THE MEAN OF ITS HISTORICAL BEHAVIOR,**
23 **PLUS ONE STANDARD DEVIATION. IS THIS FORMULATION ADEQUATE TO ENSURE**

1 **THAT BAY STATE’S CUSTOMERS RECEIVE ADEQUATE CALL CENTER**
2 **PERFORMANCE?**

3 A. No. Because Bay State’s historical call center performance has been so
4 frequently sub-standard, Bay State should not be permitted to use the mean of its
5 unadjusted historical actual performance as a basis for a performance standard.
6 Other Massachusetts utilities are able to meet higher standards year in and year
7 out. Bay State should not be rewarded for its substandard performance by
8 lowering the bar for future performance. In addition, given Bay State’s
9 experience of allowing its call center performance to drop to very low levels, and
10 to average such poor performance in with higher levels during the year to meet
11 annual targets, Bay State should be required to meet standards on a monthly basis,
12 as it is in New Hampshire.

13 **Q. WAS NISOURCE UNDERGOING PARTICULAR FINANCIAL STRESS DURING THIS**
14 **PERIOD?**

15 A. Yes. On November 1, 2000, NiSource acquired Columbia Gas. As a
16 result of the merger, NiSource’s debt ratio rose to about 70% in the year
17 following the purchase. This is an extremely high level for a utility. NiSource
18 was forced to undertake numerous cost-cutting measures, including, evidently,
19 holding off on staff additions as long as possible. Unfortunately, in the case of
20 the Call Center, this approach likely led to the management decision to allow
21 understaffing from February 2002 through the fall of 2003, at least until the
22 intervention of regulators and the assessment of penalties made the continued
23 failure untenable.

1 **Q. DID THE BAY STATE CALL CENTER PERFORMANCE PROBLEMS REQUIRE**
2 **REGULATORY INTERVENTION?**

3 A. Yes. All three states served by Bay State took action to address the
4 Company's service quality lapses. As early as May 2002, the Maine PUC opened
5 an investigation and ordered a management audit of Bay State's service quality.
6 "Order Initiating Management Audit and Investigation of Service Quality
7 Incentive Plan." Me. PUC 2002-140 (May 16, 2002). The Maine PUC staff
8 conducted a study of the Call Center, placing on average 5 calls per day in a 19-
9 week period between June 2001 and November 2002, and found that only 40% of
10 the trial calls got through.

11 The Director of the New Hampshire Public Utilities Commission
12 Consumer Affairs Division filed testimony in the rate case of Bay State's affiliate,
13 Northern Utilities, NH PUC Docket No. DG 01-182, in which she provided
14 evidence that (a) complaint levels for Northern from 1997 through 2002 were
15 excessive, (b) average speed of answers for the Call Center were excessive, (c)
16 average daily percent calls incomplete (abandoned) were excessive, (d) the
17 number of estimated bills and related billing problems were excessive, and (e) the
18 Company had failed to correct these problems despite numerous meetings with
19 regulators from the three states affected by Bay State's service quality practices.
20 Ms. Noonan recommended the imposition of service quality standards with
21 penalties for failure to comply, and the Commission adopted the standards as part
22 of a settlement of the case. Subsequently, the New Hampshire Public Utilities
23 Commission fined Bay State's New Hampshire subsidiary, Northern Utilities,

1 Inc., five times in the first half of 2003, for failure to meet call center performance
2 requirements established by the Order approving Bay State's acquisition of
3 Northern.

4 And in 2003, this Department opened an investigation into Bay State's
5 service quality, docketed at D.T.E. 03-10. The Department's investigation
6 remains open.

7 **Q. IN ADDITION TO CALL CENTER PROBLEMS, WHAT OTHER BAY STATE SERVICE**
8 **QUALITY PROBLEMS HAVE BEEN NOTED BY REGULATORS?**

9 A. The Maine Commission, in its Order Initiating Management Audit,
10 observed that it had received a high level of estimated billing complaints. The
11 Maine Commission also commented adversely on the Company's decision to
12 close all walk-in customer service offices, where customers had previously been
13 able to make payments and resolve questions. Finally, the Maine Commission
14 noted that Bay State and its Northern subsidiary had cut staffing. The problems
15 the Company presented led the Maine Commission to question whether the utility
16 still retained the ability to provide adequate service in several areas apart from
17 call center response, such as its capacity to respond to large scale outages and
18 other service emergencies.

19 **Q. YOU NOTE THAT BAY STATE CLOSED ITS WALK-IN CUSTOMER SERVICE**
20 **CENTERS. WHAT IMPACT DID THESE CLOSURES HAVE ON CUSTOMERS?**

21 A. According to the Maine Commission, approximately 5% of Bay State
22 Gas's customers, or approximately 17,000 customers in the three states combined,
23 used the walk-in centers as their primary means of paying their bills. These
24 customers were suddenly left without their usual means of paying their bills.

1 **Q. IS THERE OTHER EVIDENCE THAT BAY STATE GAVE SHORT SHRIFT TO**
2 **CUSTOMER ACCOUNT NEEDS IN RECENT YEARS?**

3 A. Yes. As the chart below shows, while Bay State's expenditures had been
4 cut back in the years between 1993 and 1998, the pace of cuts accelerated sharply
5 starting in 1998.

Changes in Customer Account O&M Expenditures 1993-2003				
PERIOD	\$ Change Nominal	% Change Nominal	\$ Change Real	% Change Real
1993-1998	Down \$303K	Down 2.4%	Down \$557K	Down 3.9%
1998-2003	Down \$825K	Down 7.3%	Down \$984K	Down 8.4%

6
7 **Q. DID BAY STATE MAKE REPRESENTATIONS TO THIS DEPARTMENT ABOUT ITS**
8 **COMMITMENT TO CUSTOMER SERVICE AND SERVICE QUALITY, IN THE CONTEXT**
9 **OF ITS MERGER WITH NISOURCE?**

10 A. Yes. Testifying for the Petitioners, Mr. Simpson testified that utility
11 operations "will not be affected by any merger." He also stated that NiSource
12 would "ensure that new customers are served effectively and efficiently." Mr.
13 Simpson further testified that "Bay State's management structure and
14 organizational structure will remain intact."

15 **Q. HAS BAY STATE HONORED THESE COMMITMENTS?**

16 A. No. As I have testified, Bay State reduced staff, closed local facilities,
17 allowed its call center performance to deteriorate (at times to shockingly low
18 levels), allowed meters to go unread and/or bills to be estimated for long periods,
19 and lost its institutional memory, making it difficult for consumers and their
20 representatives to get necessary information and services.

1 **Q. WHAT DO YOU CONCLUDE ABOUT BAY STATE’S CALL CENTER MANAGEMENT?**

2 A. When Bay State experienced staffing reductions in 2002, it held off on
3 adding necessary replacements for months, and even then the replacements were
4 only temporary, required training, and were not in sufficient numbers to properly
5 staff the call center. The Company allowed its understaffing to persist for about a
6 year and a half, before finally in fall 2003 staffing up to what it considers its
7 optimal amount. Thus, Bay State has failed to staff its call center at a level that
8 would be required by prudent management. As a result, at various times during
9 this period, customers have suffered from poor quality service.

10 **Q. HOW DO BAY STATE’S CUSTOMERS PERCEIVE THE COMPANY’S QUALITY OF**
11 **SERVICE?**

12 A. Bay State gets worse marks for customer satisfaction than the average gas
13 company in the eastern region, according to the 2003 J.D. Powers Gas Utility
14 Residential Customer Satisfaction Survey. Attachment UWUA 1-33(a). While it
15 has relatively good marks for field service, it has worse than average marks for
16 customer service and billing & payment.

17

18

SAFETY AND RELIABILITY

Q. PLEASE DISCUSS THE IMPORTANCE OF GAS UTILITY SAFETY AND RELIABILITY.

A. Reliability is important for all utilities, but perhaps no utility has a more serious reliability obligation than the gas utility. Natural gas is an inherently dangerous material. Standards for leak detection and prevention, response to odor and other safety calls, underground facility marking, main inspection and the like must be maintained at the highest level. In addition, gas mains installed in the 1950s and earlier using unprotected steel ("bare steel") and later-vintage coated steel, not cathodically protected, is subject to corrosion, and gas utilities must replace bare steel/early coated facilities with facilities of the most up-to-date material (currently, plastic or cathodically-protected coated steel pipe) on an aggressive schedule, to forestall leaks caused by corrosion.

Q. WITH RESPECT TO RELIABILITY, WHAT METRICS ARE RELEVANT FOR THE DEPARTMENT'S CONSIDERATION?

A. There are several indices of Company attention to reliability problems. Among other things, these include replacement of old and corroded mains, operations and maintenance expenditures, responsiveness to emergency calls, and adequacy of safety-related staffing and supervision.

Q. WITH RESPECT TO MAIN REPLACEMENT, WHAT ARE SOME MEASURES OF A COMPANY'S PROGRESS?

A. One indicator of the progress towards main replacement needs is the capital investment of the firm. For a gas utility, the primary objects of capital

1 investment are mains and services. A reduction in capital investment, thus, likely
2 reflects a reduced investment in mains and services, including replacement mains.

3 **Q. HAVE YOU SEEN PATTERNS IN BAY STATE'S CAPITAL INVESTMENTS IN RECENT**
4 **YEARS THAT GIVE RISE TO RELIABILITY CONCERNS?**

5 A. Yes. For the years 2000 through 2003, Bay State's capital investments
6 plummeted. For the four years 1996 to 1999, the Company's average capital
7 expenditures were \$46.9 million. In 1999, Bay State spent \$67.7 million on
8 capital investment.¹ However, in 2000, capital investment fell to \$33.7 million, a
9 drop of over 50%. Further, the Company expended only an average of \$30.5
10 million per year on capital investments for the four years 2000 to 2003. Thus,
11 after the Columbia Gas merger, the Company expended on average about three
12 fifths of what it had spent on capital investment for the period immediately before
13 that takeover.

14 **Q. PLEASE COMPARE THE ANNUAL PERCENT CHANGE IN COMPLETED CAPITAL**
15 **INVESTMENT YEAR TO YEAR IN CONSTANT DOLLARS.**

16 A. According to the Company's Service Quality Report for calendar year
17 2004, Attachment 1-7 (b), filed in D.T.E. 05-12, completed capital investment fell
18 in constant dollars each year after 1999, until 2004. Replacement investments fell
19 or rose only slightly in constant dollars throughout this period, until 2004.

20 **Q. WHY IS THIS CHANGE IN CAPITAL INVESTMENTS A CONCERN?**

21 A. A gas utility would be expected to show a pattern of persistently
22 increasing expenditures over time, so as to keep up with inflation and the need to
23 replace a seriously aging infrastructure. However, Bay State actually decreased

¹ D.T.E. 05-12, Section Two - Page 2.

1 its capital expenditures by one-third. Bay State, like any gas company, must
2 make substantial investments in infrastructure year-in and year-out in order to
3 protect the public's safety and to provide high-quality service to customers.

4 **Q. ARE THERE OTHER REASONS TO BELIEVE THAT BAY STATE HAS RECENTLY CUT**
5 **BACK EXCESSIVELY ON ITS RELIABILITY-RELATED EXPENDITURES?**

6 A. Yes. In response to DTE-4-33 in this docket, Bay State provided the
7 changes in O&M expenditures broken out for T&D-related expenditures (as
8 opposed to customer account, marketing and A&G expenses) for the period 1993
9 to 1998, and the period 1998 to 2003. Whether looked at in nominal dollars or
10 constant dollars, Bay State's T&D O&M expenses were trending upwards from
11 1993 to 1998, and turned sharply downwards for the following period, including
12 the immediate post-NiSource merger years:

Changes in T&D O&M Expenditures 1993-2003				
PERIOD	\$ Change Nominal	% Change Nominal	\$ Change Real	% Change Real
1993-1998	up \$1.67M	up 12.2%	up \$1.48M	up 9.5%
1998-2003	down \$70K	down 0.3%	down \$466K	down 2%

13
14 **Q. THE COMPANY ASSERTS THAT THESE DATA (AND THE OTHER REDUCTIONS IN**
15 **O&M SHOWN IN RESPONSE TO DTE-4-33) DEMONSTRATE THAT THE COMPANY**
16 **RESPONDED POSITIVELY TO THE INCENTIVES CREATED BY THE RATE FREEZE. IS**
17 **THIS THE ONLY REASONABLE INFERENCE THAT CAN BE DRAWN FROM THE**
18 **DATA?**

19 A. No. A swing of T&D expenditures from an average increase of about 2%
20 per year to an essentially flat level of expenditures does not necessarily represent
21 prudent trimming of unnecessary expenditures. It is equally if not more
22 reasonable to conclude that Bay State was expending insufficient sums on T&D
23 operations and maintenance during the 1998 to 2003 period. Certainly it had

1 powerful reasons to cut expenditures deeply in order to cover the acquisition
2 premium paid to acquire Columbia Gas.

3 **Q. IS THERE OTHER EVIDENCE THAT BAY STATE CUT EXPENDITURES IN**
4 **OPERATIONS AND MAINTENANCE STAFF TOO FAR?**

5 A. Yes. Mr. Cote, answering questions on cross-examination in this docket,
6 acknowledged that cuts in field staffing may have gone too far.

7 **Q. HAS BAY STATE BEEN REPLACING MAINS ON A REGULAR SCHEDULE?**

8 A. No. Since 1999, Bay State's main replacement rate has dropped. Main
9 replacement mileage fell each year from 1999 to 2002. While the miles of main
10 replacement has gone up in 2003 and 2004, it is still not as high as it was in 1999.
11 Only in the test year, 2004, have replacement levels approached those of 1999.
12 This pattern is borne out by the fact that actual 2004 "Total Direct Additions" of
13 bare steel main replacement were \$7.4 million, whereas they were \$3.2 million on
14 average in the four preceeding years, according to the Company's response to
15 DTE-3-34. The reduced level of unprotected steel replacement in the years before
16 the test year stands in contrast to the increasing number of leaks detected during
17 the same period. The Company shows corrosion leaks per mile of unprotected
18 steel main increasing at a linearized rate of just under 6% per year from 1985 to
19 the present, with leaks per mile of unprotected steel main jumping from 0.87 in
20 1998 (not the lowest rate in recent years) to 1.25 leaks per mile in 2003.
21 Meanwhile, for the period 1985 through 1997, the rate of reduction of unprotected
22 steel mains averaged 46 miles per year. But the rate of reduction slowed

1 considerably in the period 1998 through 2003, to only 15 miles reduced per year
2 on average.

3 **Q. BAY STATE HAS CONSISTENTLY MET ITS BENCHMARKS FOR EMERGENCY CALL**
4 **ANSWERING AND ODOR CALL RESPONSE. IN LIGHT OF THIS, IS THERE ANY**
5 **REASON TO BE CONCERNED ABOUT RESPONSIVENESS TO EMERGENCY AND ODOR**
6 **CALLS?**

7 A. Yes. Bay State's benchmarks for emergency call answering are based on
8 its own historic performance. Thus, to the extent Bay State slips below the
9 highest standard, it pulls its own targets down. With respect to Bay State's
10 emergency call response, once the standard deviation is allowed, the benchmark
11 performance standards for 2002, 2003 and 2004 respectively were below 95%
12 (94.2%, 94.7% and 94.7% respectively).

13 **Q. HOW DID BAY STATE PERFORM ON THE 30 SECOND EMERGENCY CALL**
14 **ANSWERING FACTOR?**

15 A. In 2002, 2003 and 2004, Bay State achieved 97.5%, 96.9% and 97.6%
16 emergency call answering within 30 seconds. While this exceeded the Bay State-
17 specific benchmark, it could have been better. Compare, for example, Public
18 Service Electric and Gas, a New Jersey gas and electric utility. For the 2002,
19 2003 and 2004 reporting periods, PSE&G answered 100% of emergency calls
20 within 30 seconds.

21 **Q. HOW DOES BAY STATE EXPLAIN ITS EMERGENCY CALL ANSWERING FACTORS?**

22 A. In its 2002 Service Quality Report, Bay State notes that its emergency call
23 answering factors were depressed as a result of customers calling the emergency
24 number with non-emergency calls.

1 **Q. WHY DID CUSTOMERS CALL THE EMERGENCY NUMBERS WITH NON-EMERGENCY**
2 **CALLS?**

3 A. Bay State explained that when customers were unable to get through to the
4 Contact Center with their non-emergency calls, they called the emergency lines,
5 thus putting pressure on the ability to meet emergency line targets.

6 **Q. DID THE COMPANY INCREASE STAFF FOR THE NON-EMERGENCY LINE IN ORDER**
7 **TO KEEP THE EMERGENCY LINES FREE?**

8 A. The 2002 report does not indicate that the Company took such a step.

9 **Q. HAVE STAFFING CHANGES PUT SAFETY AT RISK?**

10 A. Potentially. In 1998, the Company decided to outsource its line location
11 function. This task is an essential function, because excavators rely on utilities to
12 mark the location of their facilities accurately, in order to be able to avoid
13 accidentally damaging the facilities during excavation. This is a particularly
14 important function in the case of gas utilities. Shortly after Bay State outsourced
15 its line location function, the line location contractor made a mistake in response
16 to a Dig-Safe request for marking, and failed to identify a gas service feeding a
17 home in Attleboro. The excavator ruptured the line, allowing gas to leak into the
18 home, which was subsequently blown up by explosion of the gas. Two people
19 lost their lives, seven people were injured, and 68 other houses were damaged.
20 The Department found that the locator failed a drug test after the incident. Soon
21 thereafter, Bay State took the line location function back in-house.

SYSTEM EXPANSION

Q. WHY IS SYSTEM EXPANSION IMPORTANT?

A. System expansion involves laying mains in areas that are presently without gas service, marketing to potential new customers, and hooking new customers into the system. Expansion of the customer base is important because the greater the throughput, the lower the unit cost of the delivery system, except where the new facilities will not serve a sufficient number of customers. Failing to expand the system into areas of economic service leaves existing customers responsible to pay unnecessarily high costs for the delivery network. Failing to expand the delivery network leaves many Massachusetts households and businesses without competitive options for heating, hot water, and process needs.

Massachusetts needs the alternative of natural gas wherever it is cost-efficient. Finally, natural gas has environmental advantages over some other fuels, making system expansion important in the effort to develop alternatives that promote a cleaner environment.

Q. WHAT COMMITMENTS DID BAY STATE MAKE TO BUSINESS GROWTH AND EXPANSION, AS PART OF ITS PETITION FOR APPROVAL OF THE NiSOURCE MERGER?

A. Mr. James Simpson, testifying for the Petitioners, made numerous representations of the Companies' commitment to system expansion:

"The strategic merger [is designed] . . . to take advantage of attractive opportunities in New England for business growth and expansion." (p. 13)

"[D]eregulation . . . is creating unprecedented opportunities for greatly expanded marketing efforts. [We will] design and implement . . . marketing programs." (p. 8).

1
2 “The growth in revenues attributable to these efforts will enable the Utility
3 Segment to keep rates to our customers as low as possible. . . There are
4 approximately 109,000 potential customers that are located along our distribution
5 system . . . who do not currently use natural gas.” (p. 8)
6

7 **Q. WHAT IN FACT HAS BEEN THE MERGED COMPANY’S RECORD OF PROMOTING**
8 **SYSTEM EXPANSION?**

9 A. Once the merger took place, the Company dropped its efforts to expand its
10 system and sign up new customers. The Company cut its sales staff for the three
11 New England States. In 2002, the firm reduced field sales staff, reduced total
12 sales-related staff to 24, and consolidated all inbound telephone activities,
13 according to UWUA 1-21. In 2003, the Company eliminated all field sales staff,
14 two account representatives, and the commercial sales manager, dropping sales-
15 related staff to 17. While the Company has since slowly added back some sales
16 personnel, the staffing level for such activities remains at about 2/3 the level
17 before the merger with NiSource. This impact is also reflected in the following
18 table of changes in T&D marketing expenses between 1993 and 2003:

Changes in T&D Marketing Expenditures 1993-2003				
PERIOD	\$ Change Nominal	% Change Nominal	\$ Change Real	% Change Real
1993-1998	Down \$70K	Down 2.2%	Down \$132K	Down 3.7%
1998-2003	Down \$500K	Down 17.8%	Down \$524K	Down 18%

19
20 **Q. IS THERE OTHER EVIDENCE OF THE COMPANY’S LACK OF COMMITMENT TO**
21 **SYSTEM EXPANSION?**

22 A. Yes. Rather than increasing, the Company’s rate of adding new customers
23 has fallen. The Company’s average annual growth rate in numbers of customers
24 dropped from 2.51% per year for the period 1993 – 1998 to a third of a percent
25 per year from 1998 to 2003. Attachment DTE-4-36. The Company added one

1 fourth fewer new customers in 2002 (2860 residential, 457 business, 3317 total)
2 than it had in 1999 (4018 residential, 570 business, 4588 total), per the response
3 to AG-6-14. Looking forward, the Company's construction budget for 2005
4 through 2009 for new business is flat, per the response to AG-1-18.

5 **Q. IS THERE ANY RATEMAKING TREATMENT THAT COULD ACCOUNT FOR THE**
6 **COMPANY'S FAILURE TO PURSUE SYSTEM EXPANSION AS PROMISED IN THE**
7 **MERGER DOCKET?**

8 A. Yes. The Department could impute to the Company the revenues that
9 would have been expected had the Company fulfilled its promise to expand its
10 system.

11 **Q. HOW CAN THESE IMPUTED REVENUES BE ESTIMATED?**

12 A. The Department could determine the number of new customer services
13 that would have been installed had the Company maintained its 1999 level of
14 marketing and new service installation, and multiply the result times the average
15 revenue per customer. While such a remedy would not make customers whole for
16 the additional revenues promised in the merger and lost through the Company's
17 failure to ramp up its pursuit of new customers, it would at least hold them
18 harmless from the erosion of revenues from the drop in marketing and new
19 service installation.

20

21

STAFFING

Q. WHAT STAFFING ISSUES ARE OF PARTICULAR CONCERN?

A. There are a number of issues of importance in the regulatory context. A utility must maintain sufficient staff to provide quality and reliable service over time. A utility's labor practices must not reward cost-cutting at the expense of reliability, customer service, worker safety, and system expansion.

Q. WHAT METRICS CAN BE USED TO EVALUATE THE STRENGTH OF A GAS UTILITY'S LABOR POLICIES?

A. There are a number of indices of sound labor policies. In the case of Bay State, I have already discussed the failure of management to staff up the call center sufficiently, and the cuts in field staff that went too far. I will expand this discussion to staffing generally. I will also focus on the extent to which the company relies on outsourcing.

Q. WITH RESPECT TO STAFFING LEVELS, WHAT ARE YOUR PRIMARY CONCERNS?

A. First, Bay State has severely cut staff since 2000. Given the problems the Company has in maintaining quality customer service, and making adequate investments in infrastructure, it is reasonable to question whether Bay State has cut too deeply into its staffing. Second, Bay State has recently announced that it intends to "outsource" significant components of its business to IBM, including call centers and technology. This approach to fulfilling its obligations as a gas utility is likely to put added stress on resources that are already overly constrained, puts core utility functions under the control of independent contractors, will introduce a need to train up new contract staff, and may well lead

1 to further difficulties in meeting customer service and plant investment
2 requirements. Third, the introduction of a performance based ratemaking plan
3 will ensure that the Company continues to feel pressure to limit staff below
4 needed levels, as it has while working out from under the Columbia Gas
5 acquisition debt.

6 **Q. PLEASE DESCRIBE THE STAFF CUTS IN THE LAST SEVERAL YEARS.**

7 A. Exhibit NB-1 shows the total staff for Bay State for the years 1997
8 through 2004, along with a month-by-month breakout, showing non-union and
9 union employees separately, for each month beginning January 2001. As this
10 exhibit shows, Bay State's staffing has plummeted since its high point in 1998.
11 Total employment dropped from 861 in 1998 to an average of 554 for 2004 (the
12 test year). This is a reduction in force of over 300, or over one-third the
13 workforce. Bay State eliminated 54 jobs from 1998 to 1999, another 43 from
14 1999 to 2000, 11 more from 2000 to 2001, 48 over the year 2001, 94 over the year
15 2002, and 11 over the year 2003. By December 2003, the cumulative loss of
16 employment at Bay State was 221 jobs since January 2001.

17 **Q. WHAT WAS THE COMPANY'S EMPLOYMENT LEVEL IN THE TEST YEAR AND FIRST**
18 **QUARTER OF 2005?**

19 A. In 2004, the test year, the Company *added* a total of 47 staff members.
20 Thus, the test year is unrepresentative of the historic trend of employment in
21 recent years, while the Company was under a rate cap, and working off merger-
22 related debt problems. From December 2004 to January 2005, the Company
23 added 30 more staff members.

1 **Q. IF THE COMPANY HAS STARTED TO REHIRE WORKERS, AS THE DATA SUGGEST,**
2 **WHY ARE YOU CONCERNED WITH STAFFING?**

3 A. First, notwithstanding the test year hires, the cumulative loss of
4 employment since January 2001 is 168 jobs. Of these, 105 have been non-union,
5 and 63 union positions. Second, NiSource has recently announced a major
6 outsourcing program. On June 21, NiSource announced that it has signed an
7 agreement with IBM, under which IBM will take over certain utility functions,
8 including call center management. In its press release, NiSource said it expects
9 572 employees company-wide to move to IBM, and that it will cut 445 jobs by
10 the end of 2006. The total represents about 12% of NiSource's 8500 workforce.

11 This deep cut comes on top of the elimination of 1500 jobs over the last
12 four years at NiSource. Third, as I mentioned, the introduction of PBR will
13 continue the pressure to reduce costs, including staff.

14 **Q. HAS NISOURCE STATED WHY IT HAS CONTRACTED TO OUTSOURCE THESE**
15 **FUNCTIONS TO IBM?**

16 A. Gary Neale, NiSource CEO, stated that the deal "will enable NiSource to
17 transform its business to further focus on core strengths of providing safe, reliable
18 utility and pipeline services to our customers." Another spokesperson stated that
19 the idea is "to let IBM do what it does best -- improve technology -- while letting
20 the energy company concentrate on its main business." The example he offered
21 was the streamlining of general ledger systems. The NiSource spokesman said
22 that its existing IT staff "can deliver that, but not as fast as IBM." He went on to
23 state that by outsourcing the IT and other functions, "we can channel money into

1 things like the Hardy Storage Project," an underground gas storage project in
2 which NiSource will invest about \$100 million in the state.

3 **Q. WHAT DO YOU CONCLUDE FROM NISOURCE'S EXPLANATION OF THE REASONS**
4 **FOR THE IBM DEAL?**

5 A. I conclude that NiSource does not consider customer service, billing and
6 collection to be part of the utility's core functions. I also conclude that the
7 Company has not adequately justified the outsourcing of call center and related
8 functions, since they involve customer contact, rather than back-office IT
9 improvements. Finally, I question why a major utility like NiSource would need
10 to shave costs from IT and other functions in order to raise \$100 million for a
11 storage project. In other words, absent the pressure on the firm's ability to raise
12 capital brought about by its acquisition of Columbia Gas, it should not have to
13 choose between continuing and strengthening its customer service and billing
14 functions on the one hand, and developing additional gas storage on the other.

15 **Q. HOW MANY JOBS WILL BE ELIMINATED AT BAY STATE, OR MOVE TO IBM?**

16 A. It is not known at this time. NiSource has asked all employees in the
17 affected positions to submit questionnaires on the basis of which IBM will select
18 which employees it wishes to hire for the positions that will be moved. Press
19 reports and Local 273's knowledge of the type of functions performed by workers
20 in Massachusetts lead me to believe that at least 100 workers in Massachusetts are
21 subject to job termination or being offered positions with IBM.

22 **Q. WHAT IS IT CALLED WHEN A FIRM OUTSOURCES POSITIONS TO A CONTRACTOR**
23 **WHO HIRES BACK THE EMPLOYEES IN THOSE POSITIONS?**

24 A. This practice is referred to as "rebadging."

1 **Q. DOES THE COMPANY EXPECT TO SAVE COSTS AS A RESULT OF THE IBM**
2 **CONTRACT?**

3 A. Yes. The Company proposes to pay IBM \$1.6 billion over the 10 years of
4 the contract, and incur about \$70 million in transition costs. The Company has
5 publicly estimated that the transaction will save it "upwards of \$530 million in
6 operating and capital cost savings."

7 **Q. HAVE OTHER UTILITIES ENGAGED IN A SIMILAR OUTSOURCING?**

8 A. Yes, in mid-2004, TXU Corp., a Texas electricity utility in Texas, joined
9 with consulting firm Capgemini in a limited partnership under which Capgemini
10 provides business process services and information technology to TXU. Other
11 utilities with outsourcing deals include Xcel Energy (IBM Corp.), Maine Public
12 Service (Delinea), Southern Co. Gas (Accenture), Georgia Natural Gas (Alliance
13 Data Systems), and Entergy (SAIC).

14 **Q. HOW IS THE TXU EXPERIMENT DOING?**

15 A. The decision to outsource customer service has facilitated a policy of
16 aggressive service terminations, and the effort to drop customers who are
17 perceived as bad credit risks. In an article in the Wall Street Journal earlier this
18 year TXU acknowledged it has introduced methods aimed at paring bad debt,
19 including giving Capgemini employees less latitude to offer customers extended-
20 payment plans than they had as TXU employees.

21 **Q. WHAT OTHER IMPACTS ARE FORESEEN AS A RESULT OF THE TXU/CAPGEMINI**
22 **DEAL?**

23 A. Up to 100 TXU jobs are likely to move offshore.

1 **Q. IF WORKERS MOVE TO IBM, AND ARE “REBADGED,” WHAT IS THE HARM TO BAY**
2 **STATE’S MASSACHUSETTS EMPLOYEES AND CUSTOMERS?**

3 A. There are three key problems with the rebadging approach. First, in
4 principle, rebadging should not save any money for the Company. Rebadging
5 will save money only if one or more of the following holds true: (a) the Company
6 had imprudently managed its staff, and only the contractor is able prudently to
7 manage the staff, (b) the employees receive less compensation from the contractor
8 than from the Company and the associated “savings” are shared with the
9 Company, or (c) the level of effort expected of or received from the Contractor is
10 less than the level of effort maintained by the Company. Second, outsourcing
11 significantly weakens control over the performance of the functions outsourced,
12 with potentially disastrous results. Finally such massive outsourcing
13 demonstrates a lack of commitment by the utility to maintaining quality services
14 to its customers.

15 **Q. PLEASE DISCUSS THE POSSIBILITY THAT NiSOURCE HAS HAD ELEVATED COSTS**
16 **IN THE FUNCTIONS TO BE OUTSOURCED.**

17 A. With respect to NiSource’s staff management, I would be surprised if Bay
18 State were to admit it had imprudently managed its staff, and could not be trusted
19 economically to manage a call center, billing and collection functions, and the
20 like. And if this were the case, the remedy should not be a 10-year outsourcing
21 package such as that entered into with IBM.

22 **Q. PLEASE DISCUSS THE EXTENT TO WHICH THE SAVINGS WILL COME IN THE FORM**
23 **OF ADVERSE CONSEQUENCES FOR BAY STATE’S WORK FORCE.**

24 A. As to savings coming in the form of reductions in staff compensation, it
25 would appear that NiSource and IBM have intentions along these lines. For

1 example, although little is known about the transaction as yet, we do know that
2 IBM has only agreed to provide “comparable” pay for NiSource employees
3 offered comparable jobs at IBM, and that IBM has declined to commit to
4 honoring the seniority of NiSource employees. Thus, some employees may be
5 offered their current job at lower wages, whether because of a lower pay scale, or
6 loss of seniority, or both. In addition, severance pay will be offered to those laid
7 off, but workers offered positions for the same or similar pay within 50 miles of
8 their current workplace will not be offered severance pay. A worker offered a
9 job with similar but lower pay, at a remote location, will have effectively been
10 given a worse situation than at present. Also, while IBM states it provides full
11 benefits to its employees, it is unclear whether benefit packages offered to IBM
12 employees will in fact be on par with benefit packages the “rebadged” employees
13 enjoyed at NiSource. Thus, it is reasonable to infer that some of the “savings” to
14 be obtained via the outsourcing will come at the expense of former Bay State
15 employees and their families.

16 **Q. HAVE OTHER FIRMS WHO HAVE OUTSOURCED SIMILAR FUNCTIONS BEEN**
17 **SATISFIED WITH THE RESULTS?**

18 A. Some yes and some no. But the trend towards outsourcing seems to have
19 leveled off recently. This may be as a result of the adverse experience of a
20 number of firms. In recent months, a number of outsourcing deals of similar
21 magnitude have fallen through.

1 **Q. PLEASE GIVE SOME EXAMPLES OF OUTSOURCING DEALS THAT HAVE GONE SOUR**
2 **RECENTLY.**

3 A. JPMorgan Chase & Co. cancelled a \$5 billion deal with IBM last year,
4 less than two years into what was intended as a seven-year contract. Sears,
5 Roebuck and Co. recently killed a \$1.6 billion deal with Computer Sciences Corp.
6 Two years into a ten-year contract with IBM (which was expected to save over
7 \$300 million over the term of the deal), Bank of Scotland has cancelled the
8 outsourcing, and is pulling the 500 affected employees back within the firm. In
9 2002, Bank One cancelled a major outsourcing deal with IBM and AT&T, 4 years
10 after its inception. In 2003, Cable & Wireless ended its over \$3 billion IT and
11 customer billing systems outsourcing deal with IBM five years early.

12 **Q. HAS CABLE & WIRELESS MADE CLAIMS AGAINST IBM UNDER THE NOW-**
13 **DEFUNCT AGREEMENT?**

14 A. Yes. C&W apparently felt that IBM had violated the terms of the global
15 framework agreement between the two firms. Cable & Wireless has also accused
16 IBM of overcharging, and that dispute remains in the courts.

17 **Q. HAS CABLE & WIRELESS BEEN SATISFIED WITH THE RESULTS OF TERMINATING**
18 **THE OUTSOURCING AGREEMENT?**

19 A. Apparently so. Cable & Wireless has stated that once they cancelled the
20 balance of their long-term contract and brought their IT and customer service
21 functions back in-house, they experienced an improvement in operational
22 efficiency and customer service since the change. Costs have also fallen
23 dramatically, according to C&W management.

1 **Q. PLEASE DESCRIBE THE DISPUTE BETWEEN SEARS AND CSC OVER CONTRACT**
2 **PERFORMANCE.**

3 A. As reported in Computer World, based on an SEC filing and court
4 documents, Sears terminated the \$1.6 billion, 10-year outsourcing contract it had
5 entered into with CSC after only 11 months. CSC has sued Sears, claiming
6 wrongful breach, but has been denied injunctive relief as the dispute continues in
7 court. Sears has alleged that CSC's performance was "a dismal failure from the
8 start" and by September 2004 had become "so poor that [CSC] was forced to
9 summon a 'red team' from its corporate offices to assess its deficient
10 performance." According to Sears, CSC graded itself as "poor" in nearly every
11 category of contract performance, including (a) service delivery, (b) project
12 planning and tracking, and (c) team organization and strength. In documents filed
13 in court, Sears said it had notified CSC of 65 individual breaches of the agreement
14 since the contract took effect. CSC disputes the charges.

15 **Q. WHAT LESSONS CAN BE LEARNED FROM THE SEARS' EXPERIENCE?**

16 A. There are two cautionary lessons from the Sears' experience. First, the
17 Sears/CSC dispute is a reminder that if problems arise in a major, long-term
18 outsourcing deal, the contract cancellation fees can be quite large and as a result
19 disputes over contract cancellation can become litigious and difficult to resolve.
20 Outsourcing contractors will want high contract cancellation fees built into the
21 contract, because they must lay out significant sums of money to take over and
22 restart the major functions of the firm sending them the outsourcing business.
23 Second, contractors cannot always be trusted to do quality work, or work

1 according to the contract. Yet the sheer size and length of the deal may make it
2 difficult to correct for such deficiencies. In other words, with only contract
3 remedies left, the utility has given up a major portion of its control over outcomes.

4 **Q. WHY DID J.P. MORGAN DROP ITS DEAL WITH IBM?**

5 A. In 2002, J.P. Morgan Chase & Co. entered into a seven-year, \$5 billion
6 outsourcing deal with IBM, under which IBM provided management of the bank's
7 data centers, help desks, distributed computing systems, and data and voice
8 networks. New J.P. Morgan management, being brought in as part of a merger
9 with Bank One, said they believed that bringing these functions back into the
10 firm would give them "competitive advantages, accelerate innovation and enable
11 us to become more streamlined and efficient." The same management in 2002
12 had cancelled a \$2 billion IT outsourcing contract between Bank One, IBM and
13 AT&T in 1998 under the much-heralded "Technology One" alliance, saying that
14 that Bank One's outsourcing experience "hadn't worked out" and that henceforth it
15 needed to "control its own destiny."

16 **Q. WHAT LESSONS CAN BE LEARNED FROM THE J.P. MORGAN AND BANK ONE**
17 **EXPERIENCE?**

18 A. At the very least, firms should exercise great caution when deciding to
19 outsource significant functions. Outsourcing risks the loss of control over the
20 firm's destiny. In the case of utility services, particularly those involving direct
21 customer contact, the contract provider may not always be relied on to follow
22 through with the same commitment to the public service goals of the firm as the
23 utility's own employees.

1 **Q. CAN YOU SUMMARIZE WHY THESE FIRMS HAVE CANCELLED THEIR**
2 **OUTSOURCING CONTRACTS AND BROUGHT THE FUNCTIONS BACK IN-HOUSE?**

3 A. As noted, two main reasons are cited. In the case of Sears and Cable &
4 Wireless, there have been allegations that the former vendor provided poor
5 performance. J.P. Morgan and Cable & Wireless have also noted the loss of
6 control inherent in an outsourcing arrangement. Loss of competitive advantage
7 and the ability to reach strategic goals has also been cited.

8 **Q. IS OUTSOURCING AS POPULAR AMONG MAJOR FIRMS AS IT WAS RECENTLY?**

9 A. No. Revenues for outsourcing contractors like IBM and Capgemini
10 continue to grow, but not at the same rapid rate as earlier in this decade.
11 According to one article on the subject, outsourcing is no longer seen as a cure-all
12 for expensive IT or business process problems, say experts.

13 **Q. COULD NiSOURCE DECIDE TO “INSOURCE” LATER, IF THE PLANNED**
14 **OUTSOURCING HAS THE DOWN-SIDES YOU HAVE WARNED ABOUT?**

15 A. The NiSource/IBM contracts are not available, so I do not know the terms
16 under which NiSource can quit the contract and bring the functions back into the
17 firm. Because of the high up-front costs to the contractor, typically outsourcing
18 contracts require a certain minimum commitment, and/or have increasing
19 penalties that must be paid if the contract is broken after the contractor has
20 (presumably) invested greater sums to take over the functions. It can also be
21 complicated to re-integrate the functions into the firm.

1 **Q. NOTWITHSTANDING THESE DIFFICULTIES, HAVE OTHER FIRMS BEGUN TO**
2 **“INSOURCE” FUNCTIONS PREVIOUSLY OUTSOURCED?**

3 A. Yes. According to the Gartner consulting representative quoted in the
4 trade press, as many as 64 per cent of firms have already brought an outsourced
5 service back in-house.

6 **Q. ARE THERE OTHER INDICATIONS THAT FIRMS ARE MORE HESITANT TO ENTER**
7 **INTO 10-YEAR, SINGLE VENDOR DEALS LIKE THE NiSOURCE/IBM DEAL?**

8 A. Yes. Eighty percent of firms already in an outsourcing deal have
9 renegotiated the deal. Firms that had long-term contracts are tending to move to
10 shorter deals, lasting up to five years, according to Deloitte. Three-quarters of
11 firms who do outsource are working with multiple vendors, so as to reduce their
12 dependency on any one firm. According to another analyst, “companies are
13 looking to reduce the size of their sourcing deals.”

14 **Q. IF THE BENEFITS OF BRINGING OUTSOURCED FUNCTIONS BACK INTO THE FIRM**
15 **CANNOT BE GUARANTEED, DOES THIS REALIZATION IMPLY ANY LESSONS FOR**
16 **THE OUTSOURCING DECISION AB INITIO?**

17 A. Yes. As the transaction may be difficult to unwind if it does not fulfill its
18 promise, firms should be cautious about entering into agreements that require
19 such a major disruption in their historic way of doing business. They should
20 consider splitting up the functions outsourced among a number of vendors. They
21 should maintain strong executive control and oversight, with transparent and
22 enforceable standards of performance. They should have a strong and active
23 management team in place to manage the arrangement continuously. They should
24 include provisions that allow withdrawal from the deal at various points without
25 costly penalties. They should avoid being locked in to long term arrangements.

1 **Q. DO YOU HAVE OTHER CONCERNS WITH THE PROCESS OF OUTSOURCING?**

2 A. Yes. The Department should be concerned that “rebadged” employees no
3 longer have loyalty to the utility, but to their new employer. Part of the
4 outsourcing transaction is the elimination of the pension plan of rebadged
5 employees, which is not calculated to engender loyalty to the outsourcing firm.
6 And where, as here, the utility announces that the functions performed by the
7 rebadged employees are not part of the “core” utility business, it is likely that they
8 will lose any sense of dedication to the public interest that may have motivated
9 them as utility employees.

10 **Q. DO YOU HAVE OTHER CONCERNS REGARDING THE COMPANY’S STAFFING**
11 **PRACTICES IN RECENT YEARS?**

12 A. Yes. As noted above, the Company has all but eliminated its marketing
13 staff. In addition, the Company was willing to leave crucial call center positions
14 unfilled when its parent needed cash to pay off indebtedness associated with
15 holding company strategic decisions (such as the purchase of Columbia Gas).
16 NiSource sold off its line locating unit, and Bay State similarly outsourced line
17 location until a major tragedy showed the risks of not maintaining direct control
18 of that function. Bay State closed its walk-in centers. Also, supervisors with
19 institutional memory and specific safety training are no longer maintained on
20 staff. From 1998 to June 2005, according to UWUA 1-19, Bay State dropped
21 from 20 supervisors with responsibility for inspecting, repairing or replacing lines
22 to 14, a reduction of over a third.

1 **Q. HOW DO BAY STATE'S STAFFING PRACTICES COMPARE TO NISOURCE'S**
2 **COMMITMENTS DURING THE DEPARTMENT'S REVIEW OF ITS PETITION TO**
3 **ACQUIRE BAY STATE?**

4 A. Bay State has not fulfilled the staffing commitments it made in
5 representations to the Department in the merger docket. Mr. Simpson, testifying
6 for the Petitioners, made the following representations to the Department:

7 "The Utility Segment does not anticipate that any job losses will result
8 from this merger." (p. 27)

9
10 "[Nisource] does not desire a combination with a company that would
11 require employee reductions in order to generate lower costs and short-term
12 earnings." (p. 13)

13
14 "[Nisource] plans to harness the talents of the Company and their own
15 skilled work force to grow the Company." (p. 13).

16 However, instead of leaving Bay State personnel in place, NiSource stripped the
17 Westborough offices of all but 20 of the over 200 employees who once worked
18 there, and made the other cuts noted above.

19 **Q. WHAT DO YOU RECOMMEND REGARDING BAY STATE STAFFING?**

20 A. I recommend that the Department adopt benchmark staffing levels for Bay
21 State, as provided for in G.L. c. 164, § 1E(b), such that critical customer care
22 functions like calling centers, marketing, line location, main installation, leak
23 detection and the like may not be outsourced. I note that the Department has
24 explicitly rejected Bay State's request that it be allowed to add a footnote to its SQ
25 Plan stating that it is exempt from setting benchmark staffing levels. While it
26 should not be necessary to return to 1997 levels, Bay State should not be
27 permitted to reduce staffing below current levels during the term of a PBR
28 scheme approved in this docket, until and unless the Company demonstrates that

1 such employment may be reduced and/or outsourced without adverse impacts on
2 customer service and reliability, and consistently with collective bargaining
3 agreements.

4

5 BROCKWAYTESTIMONY7-8FINAL.DOC

1 **LOW-INCOME PROTECTIONS AND EFFICIENCY**

2

3

4

5 **Q. WHAT ARE YOUR CONCERNS REGARDING BAYSTATE’S SERVICES FOR LOW-**
6 **INCOME CONSUMERS?**

7 A. Bay State Gas has failed to offer its low-income customers the same level
8 of protections and services that low-income customers of other Massachusetts
9 energy utilities can use to help maintain adequate heating and water heating.

10 **Q. PLEASE IDENTIFY LOW-INCOME SERVICES THAT BAY STATE DOES NOT OFFER.**

11 A. According to the statement made by the Massachusetts Community Action
12 Program Association (MassCAP) at the public hearing in this docket, Bay State
13 Gas has no arrearage management program. Low-income customers are
14 particularly vulnerable to run up high arrearages, as they have insufficient
15 disposable income to cushion spikes in prices or a drop in income from job loss or
16 illness. Also, if a low-income customer falls behind on utility bills, arrearage
17 management is critical to give the customer an opportunity to restore good credit
18 and utility services. Of note also is the fact that Bay State no longer permits
19 customers to pay up on a bill at or just prior to termination, as of June 2005.

20 **Q. ON BALANCE, HOW DOES BAY STATE’S APPROACH TO THESE ISSUES COMPARE**
21 **TO THAT OF OTHER MASSACHUSETTS GAS UTILITIES?**

22 A. Bay State lags behind other Massachusetts gas utilities in its approach to
23 problem solving regarding bill affordability. For example, KeySpan developed an
24 arrearage program on its own, and presented it in its last rate case, D.T.E. 03-40,
25 with the full support of MassCAP.

1 **Q. IS THERE REASON TO BE CONCERNED THAT BAY STATE'S LOW-INCOME**
2 **CUSTOMERS ARE EXPERIENCING INCREASED DIFFICULTY PAYING THEIR BILLS?**

3 A. Yes. According to the MassCAP statement, in October 2004 Bay State
4 filed data with the Department showing that arrears of low-income customers
5 went up by 160% since April 2004. MassCAP points out that this represents a
6 jump in arrearages of more than double, and is one-and-a-half times as fast a rise
7 as for residential customers generally. The rapid run-up in arrearages for low-
8 income customers is especially noteworthy in light of the fact that these six
9 months include the summer period, when bills are generally lower, and when
10 ready disconnection for non-payment puts additional pressure on low-income
11 customers to keep up with payments.

12 **Q. DO YOU HAVE FURTHER CONCERNS WITH BAY STATE'S RESPONSIVENESS TO ITS**
13 **LOW-INCOME CUSTOMERS?**

14 A. Yes. The customer service and call center problems identified above in
15 my testimony fall particularly hard on low-income customers.

16 **Q. HAVE THERE BEEN CALL-CENTER PROBLEMS OF PARTICULAR CONCERN FOR**
17 **LOW-INCOME CUSTOMERS?**

18 A. Yes. I can provide you an example from New Hampshire, which I
19 understand has a parallel in the Massachusetts experience. For the first two years
20 after the Bay State takeover of Northern Utilities, according to a community
21 action agency fuel assistance director in New Hampshire, Bay State failed to
22 assign contact people within the company to respond to questions and requests
23 related to the Fuel Assistance Program. In addition, Fuel Assistance workers
24 were unable to get through to a live human being on any of the company phone
25 lines. Those with whom they were able to spoke in the Company lacked

1 knowledge of anything related to the Fuel Assistance Program and consequently
2 were unable to work with the CAP to assist clients and prevent gas
3 disconnections.

4 **Q. WHAT RELEVANCE DO THESE NEW HAMPSHIRE PROBLEMS HAVE TO BAY**
5 **STATE'S CURRENT SITUATION?**

6 A. First, these problems provide an indication that Bay State has put its
7 corporate strategic merger-related goals above its commitment to customer
8 service. Second, I understand from the low-income service provider in New
9 Hampshire that similar problems occurred when NiSource took over Bay State.
10 NiSource, like Bay State, apparently was more focused on accomplishing its
11 strategic merger goals than ensuring seamless and high-quality customer service.
12 Third, to the extent they relate to the Springfield call center staffing and training,
13 they are common to Massachusetts, as the call center is run for all three New
14 England states, and calls are not directed to state-specific representatives.

15 **Q. HAVE THESE CUSTOMER SERVICE PROBLEMS FOR LOW-INCOME CUSTOMERS**
16 **BEEN RESOLVED?**

17 A. I understand they have, for the most part. However, there is reason to be
18 concerned that similar transition problems will arise when and if IBM takes over
19 the operation of the call centers.

20 **Q. PLEASE COMMENT ON THE COMPANY'S DECISION TO REFUSE PAYMENT FROM A**
21 **CUSTOMER AT OR JUST PRIOR TO DISCONNECTION.**

22 A. The new policy, which took effect on June 1, 2005, will create particular
23 hardship for low-income customers. Many low-income customers live from
24 paycheck to paycheck, and from hand to mouth. They are completely vulnerable
25 to unforeseen higher expenses or reduced income. Denying them the opportunity

1 to pay the bill to preserve their gas service condemns them not only to
2 termination, but to added fees. Forcing them into a situation where they have to
3 come up with the additional funds for the fees, on top of the back due balance,
4 simply loads on additional burdens, without incenting any change in payment
5 behavior. To the Company's argument that some customers were taking
6 advantage of the policy of allowing field collection in lieu of termination, I would
7 only say that the Company should distinguish more carefully between those who
8 abused this policy, and those for whom the policy was a necessity due to reasons
9 beyond their control. Research into customer payment patterns shows that low-
10 income customers put utility bill payment high on their list of priorities, right
11 behind housing payments, and ahead of discretionary spending. It is not sound
12 regulatory policy to punish low-income customers with harsh practices such as
13 the denial of field collection, when the true abusers are those with the funds to pay
14 on time who simply choose not to do so or are poor money managers.

15 **Q. PLEASE DESCRIBE YOUR CONCERNS REGARDING BAY STATE'S LOW-INCOME**
16 **ENERGY EFFICIENCY OFFERINGS.**

17 A. I have been providing consulting services for the Low Income Energy
18 Assistance Network, a consortium of community action agencies and others who
19 provide weatherization and efficiency services for low-income customers in
20 Massachusetts. While attending their meetings for other purposes, I have
21 overheard numerous complaints about the difficulties in dealing with Bay State on
22 issues around the Company's low-income efficiency programming.

1 **Q. ARE THERE ANY SPECIFIC ISSUES YOU CAN POINT TO?**

2 A. Yes. According to the MassCAP statement at the public hearings in this
3 docket, Bay State had, at least for some period of time, no lead vendor for low-
4 income efficiency efforts, unlike the other Massachusetts utilities. As was
5 pointed out at the public hearing, the Bay State territory is spread across
6 Massachusetts, from Lawrence to Springfield. It covers the areas of seven low-
7 income weatherization agencies. It has been shown in the case of the other
8 Massachusetts utilities that a lead agency vendor can effectively perform quality
9 control, coordination with electric utility low-income programs (and other funding
10 sources), and providing updated and specialized training.

11 **Q. DO YOU HAVE OTHER CONCERNS WITH HOW BAY STATE HAS APPROACHED**
12 **LOW-INCOME ENERGY EFFICIENCY?**

13 A. Yes. Bay State Gas has not proposed to offer heating system
14 replacement, unlike the other Massachusetts utilities. Other utilities' heating
15 system programs are coordinated with DHCD's federally-funded heating system
16 program, HEARTWAP. DHCD's program has dollar limits for each type of
17 heating system. Increasingly it is the case that the cost of a replacement heating
18 system (which can run as high as \$4,000) exceeds these limits, even though the
19 CAP agencies' bidding process results in prices that are lower than retail. Utility
20 efficiency programs usually make up the difference, so that a malfunctioning
21 heating system can be replaced. Bay State has not proposed to do so,
22 notwithstanding that the Company's energy efficiency agreement included
23 heating system replacements "provided that cost-effectiveness is established in

1 accordance with the Department's guidelines." In the wake of last summer's
2 agreement to fund cost-effective systems, approved by the Department, the
3 Company reduced its contribution to zero, in effect taking the position that there
4 is no low-income heating system replacement that can be cost-effective under the
5 Department's rules. Why this should be so for Bay State but not for other
6 Massachusetts gas utilities is not clear.

7 **Q. WHAT ARE THE CONSEQUENCES OF BAY STATE'S FAILURE TO OFFER HEATING**
8 **SYSTEM REPLACEMENT?**

9 A. As described at the public hearing, heating systems typically require
10 replacement in the HEARTWAP and utility programs either because they are
11 unsafe, or they are so inefficient they cannot keep the premises warm at any
12 reasonable cost. Some Bay State customers, unable to afford to replace an aging
13 system despite the limited help of the HEARTWAP program, have had to live
14 with the danger of excessive carbon monoxide. Others have gone without
15 sufficient heat.

16 **Q. THE COMPANY AND THE CAP AGENCIES HAVE RECENTLY ENTERED INTO A**
17 **SETTLEMENT OF THEIR ISSUES. WHY THEN SHOULD THE DEPARTMENT BE**
18 **CONCERNED ABOUT THESE PAST PROBLEMS?**

19 A. The issue before the Department that remains, despite the partial
20 settlement, is why it took the Company so long to come to an agreement with the
21 CAP agencies. It has been a year since negotiations began, according to the
22 MassCAP statement at the public hearings. Evidently Bay State will not reach
23 out to meet its public service obligations to the most needy customers unless it
24 needs the support of this community in a petition for approval of its own agenda

1 at the Department, and even then the Company takes a long time to come to an
2 agreement it could have reached months before.

3

4

5

COST OF SERVICE

Q. WITH RESPECT TO COST OF SERVICE, WHAT ISSUES DO YOU ADDRESS IN YOUR TESTIMONY?

A. I wish to draw the Department's particular attention to the issue of the Metscan lease amortization. I also wish to address the Company's pattern of investments, and operations and maintenance expenditures, and the resulting impact on the test year.

Q. WHAT IS THE COMPANY'S PROPOSED ADJUSTMENT FOR METSCAN COSTS?

A. Bay State is terminating its leases for Metscan automatic meter reading devices. The Company is seeking to recover \$13.2 million associated with the undepreciated investment in Metscan meter reading devices and the expected net present value of lease payments. Exh. BSG/SHB-1, p. 45, lines 14-16. Of this, about \$10 million is the Company's estimate of the cost of the termination and early payment of an operating lease that covered most of the devices. The balance is associated with the unrecovered investment on Bay State's books at the end of 2004.

The Company proposes to make three adjustments to test year books to reflect its proposed amortization of costs associated with terminating the Metscan meter reading equipment leases. First, Mr. Skirtich eliminated \$2,919,051 of lease payment costs from O&M expense (see Schedule JES-6, p. 17, and Exh. BSG/JES-3). Second, he adds back \$2,643,350, representing the amortization of capital and lease payment costs over the proposed 5-year PBR period. Exh.

1 BSG/JES-3. Finally, he reduces rate base by \$2,562,615, representing the
2 elimination of net plant costs associated with Metscan meter reading devices. *Id.*

3 **Q. WHAT IS THE NET EFFECT OF MR. SKIRTICH'S ADJUSTMENTS ON REVENUE**
4 **REQUIREMENTS?**

5 A. The adjustments reduce revenue requirements from \$4,766,311 to
6 \$2,854,777. However, the Metscan units are no longer used nor useful. Had the
7 undepreciated balance of the plant investment, and the future payments under the
8 lease, been eliminated from rates, Metscan revenue requirements would have been
9 eliminated.

10 **Q. ACCORDING TO THE COMPANY, WHY HAS IT DECIDED TO END THE METSCAN**
11 **LEASES?**

12 A. Mr. Bryant describes the critical factors as "device longevity, continued
13 availability of vendor support, particularly for those devices for the smaller non-
14 instrumented meters, and the continued improvements that were made to the
15 wireless meter reading technology during the 1990's." Exh. BSG/SHB-1, pp. 47-
16 48. As a result of these factors, Bay State decided in 2000 to replace the Metscan
17 system earlier than it had originally planned. *Id.*

18 **Q. ON WHAT BASIS DOES THE COMPANY SEEK AMORTIZATION OF THE**
19 **UNDEPRECIATED PLANT BALANCES, AND THE PAYMENT TO TERMINATE THE**
20 **METSCAN LEASES?**

21 A. Mr. Bryant argues that "since the decision to deploy [the devices] was
22 prudent and benefited customers, the undepreciated plant balance should be
23 amortized over a reasonable period." *Id.* at 50. Further, since the operating lease
24 that covers a portion of the devices "represents the balance of the Company's
25 investment that has been retired prematurely...it is appropriate to treat this

1 payment as an extraordinary non-recurring expense and amortize it over a
2 reasonable period.” *Id.* at 50-51.

3 **Q. IS THERE A REASON TO REJECT THE PROPOSED AMORTIZATION OF LEASE**
4 **CANCELLATION PAYMENTS, AND AMORTIZATION OF THE UNDEPRECIATED**
5 **BALANCE OF METSCAN PLANT COSTS?**

6 A. Yes. First, Bay State’s direct case does not provide sufficient evidence to
7 demonstrate that the installation of Metscan meters on the scale of Bay State’s
8 program was prudent, and there are reasons to question the prudence of this
9 investment.

10 Second, Bay State is in the process of negotiating the amount and terms of
11 its contract termination payments. Thus, the amount of such payments is not
12 known and measurable.

13 **Q. WHY DO YOU SAY THAT THE COMPANY HAS NOT DEMONSTRATED THE**
14 **PRUDENCE OF ITS METSCAN INVESTMENTS?**

15 A. The Company went ahead with a massive investment in Metscan, signing
16 a long-term lease, when the technology of automatic meter reading, and indeed all
17 information technology, was undergoing great changes. In effect, the Company
18 made a bet on the future of the technology, a bet that has not proven profitable. A
19 more conservative and prudent course would have been to let other utilities take
20 the leadership role in trying out the Metscan technology. While any net benefits
21 of automatic meter reading would have been delayed some by that course, the
22 Company would not have found itself with a massive investment in obsolete
23 technology, as is now the case.

1 **Q. WHY DO YOU SAY THAT THE LEASE TERMINATION PAYMENTS FOR METSCAN**
2 **ARE NOT KNOWN AND MEASURABLE?**

3 A. The pay-off amount will not be known until at the earliest some time
4 during the litigation of this docket, per DTE 1-21. Given the tight timetable of
5 this case, it will not then be feasible to explore the terms of the arrangement with
6 the lessors, to determine if the payment amount is prudent. The Department
7 should not accept an estimated lease termination pay-off amount, and neither
8 should the Department accept an unexamined amount if negotiations conclude
9 during the pendency of this case.

10 **Q. WITH RESPECT TO CAPITAL INVESTMENTS, DO YOU HAVE ANY OBSERVATIONS**
11 **CONCERNING COST OF SERVICE?**

12 A. Yes. Bay State reported that in 2004 it completed \$36.6 million of "capital
13 investments" and \$15.4 million in "replacements."² This marks a one-third
14 increase in capital investments over 2003, and a near-doubling in replacements
15 over 2003. As discussed above, Bay State cut way back on capital investment in
16 the years 2000 through 2003. Bay State booked significantly higher expenditures
17 in 2004. Based on the recent pattern of investments, the 2004 test year capital and
18 replacement figures do not appear to be representative of the amounts Bay State is
19 likely to spend in years when new rates will be in effect.

20 **Q. YOU HAVE CRITICIZED THE COMPANY'S LACK OF CAPITAL INVESTMENT, AND**
21 **NOW IT APPEARS YOU WOULD HAVE THE DEPARTMENT REDUCE THE LEVEL OF**
22 **ALLOWED CAPITAL INVESTMENTS. ISN'T THIS INCONSISTENT?**

23 A. No. I am actually recommending that the Department insist on
24 consistency between the prudent level of expenditures and the amounts recovered

² D.T.E. 05-12, Section Two - Page 2.

1 in rates. As it stands now, the Department could approve a level of rates
2 sufficient to support a return to normal rates of capital investment, but the
3 Company may not in fact continue the level of investment reflected in the test
4 year. Rather, absent a specific directive of the Department, the Company could
5 return to the 2000-2003 level of investment, yet be compensated as if it were
6 spending at the 2004 (and pre-2000) rate.

BAY STATE'S MANAGEMENT PERFORMANCE OVERALL

Q. WHAT COMMITMENTS DID NiSOURCE MAKE CONCERNING THE FINANCIAL IMPACT OF ITS PURCHASE OF BAY STATE GAS DURING THE DEPARTMENT'S HEARINGS ON THE PROPOSED MERGER?

A. At the time of the merger, Bay State, through the testimony of James D. Simpson, promised the Department and the Company's ratepayers a broad range of financial benefits. The Company represented, and the Department found, that "Bay State's financial position is likely to improve" through its affiliation with NiSource. *Id.* at 48 - 49.

Q. HAS BAY STATE'S FINANCIAL CONDITION IMPROVED AS A RESULT OF THE AFFILIATION WITH NiSOURCE?

A. No. By 2002, Bay State's bonds had been downgraded three notches since its merger with NiSource, on account of the weakness of the parent company and the lack of regulatory ring-fencing to protect Bay State's cash flow from the needs of the parent firm. Bay State's financial strength was dragged down by the \$8 billion debt NiSource took on to buy Columbia Gas. Ratepayers as a result have been exposed to Bay State's higher interest expenses. Even Bay State's own witness, in the Bay State financing case, D.T.E. 02-73, acknowledged that Bay State's bond ratings were lower than they would have been had Bay State not merged with NiSource. Further, NiSource continues to work off the enormous debt it undertook to complete its acquisition of Columbia Gas in November, 2000. NiSource's debt ratio went up to 70% in the year following that merger. NiSource was forced to shed a number of assets, including its main location

1 company, in order to bring down this excessive debt level. I have already
2 discussed reductions in staffing and investment that occurred at the time NiSource
3 was trying to work off its high acquisition-related debt costs. NiSource's decision
4 to acquire Columbia put pressure on Bay State's ability to provide adequate
5 service to Massachusetts consumers, and NiSource did not protect Bay State from
6 these pressures.

7 **Q. WHAT CONCLUSIONS DO YOU DRAW ABOUT BAY STATE'S MANAGEMENT FROM**
8 **THE IMPACT OF THE COLUMBIA GAS ACQUISITION?**

9 A. Bay State will continue to be vulnerable to actions taken at the parent
10 company level for strategic reasons unrelated to, and potentially in conflict with,
11 the needs of its Massachusetts customers.

12 **Q. IS BAY STATE'S STATUS AS A SMALL UTILITY IN LARGER HOLDING COMPANY**
13 **RELEVANT TO THE D.T.E. RESPONSE THAT IS APPROPRIATE IN LIGHT OF THE**
14 **CONCERNS YOU HAVE RAISED ABOUT THE COMPANY'S MANAGEMENT?**

15
16 A. Yes. When a utility is owned by an out-of-state holding company, and
17 when the utility is a relatively small part of the overall enterprise, a regulatory
18 commission may need to be especially vigorous in order to command
19 management's attentions to problems associated with that utility.

20 **Q. DOES THIS PHENOMENON APPLY IN THE CASE OF BAY STATE?**

21 A. Yes. The service quality, investment and marketing problems I describe
22 above would likely not have occurred had Bay State remained focused on
23 Massachusetts as the main source of its business and net revenues.

24 **Q. HOW BIG IS BAY STATE GAS COMPARED TO ITS PARENT AND AFFILIATES?**

25 A. Bay State Gas serves more than 300,000 customers in Massachusetts, New
26 Hampshire and Maine combined. By contrast, NiSource distribution companies

1 taken altogether serve 3.7 million natural gas and electric customers. Thus, Bay
2 State for all of New England serves less than 10 percent of all NiSource's
3 distribution customers. Bay State's contribution to NiSource net earnings is
4 similarly a small percentage of the whole.

5 **Q. ARE THERE INDICATIONS THAT BAY STATE'S CONCERNS HAVE NOT BEEN GIVEN**
6 **SUFFICIENT PRIORITY BY MANAGEMENT IN INDIANA?**

7 A. Yes. In addition to the difficulties in obtaining approval to maintain
8 sufficient staffing levels, investments and expansion targets, there are other
9 indicia of Bay State's subordinate place in the NiSource hierarchy. For example,
10 between November 12, 1999 and January 10, 2005, Bay State has been without a
11 CEO. The post of CEO was only restored on the eve of the rate case filing (along
12 with 5 public relations and regulatory affairs staff).

13 **Q. WHAT ARE THE IMPLICATIONS OF THESE OBSERVATIONS FOR THE BAY STATE**
14 **REQUEST FOR A RATE INCREASE AND PBR PROGRAM?**

15 A. Given that Bay State is now a very small part of a large holding company
16 structure, and given that NiSource management's behavior shows that it is willing
17 to sacrifice the interests of Massachusetts consumers in favor of meeting
18 company shareholder objectives, the Department has little choice but to step in
19 and exercise vigorous oversight of Bay State, at least until management
20 demonstrates consistently that it understands and observes its obligations to
21 Massachusetts. This is particularly true where the Company has increased
22 investments and expenditures only after a rate cap has been lifted, and in a test
23 year for a rate case.

1 **Q. GIVEN THE PROBLEMS WITH MANAGEMENT THAT YOU HAVE DESCRIBED IN**
2 **YOUR TESTIMONY, DO YOU HAVE ANY RECOMMENDATIONS TO THE**
3 **DEPARTMENT AS TO HOW TO ADDRESS THESE PROBLEMS?**

4 A. Yes. For the reasons set out above, I recommend the Department make
5 the following determinations:

- 6 • Amend the Company's Service Quality plan so as to (a) set the
7 benchmarks for call center performance based on an objective standard, rather
8 than the Company's historic performance, or alternatively base the benchmark on
9 the Company's historic performance after excluding those months where
10 performance has been unacceptable, and (b) require reporting and compliance on
11 a monthly, not annual basis.
- 12 • Establish a Massachusetts staffing benchmark at no less than current levels
13 of staffing, to be maintained until and unless the Company demonstrates that such
14 employment may be reduced and/or outsourced without adverse impacts on
15 customer service and reliability, and consistently with collective bargaining
16 agreements.
- 17 • Deny the Company's request for recovery of the estimated Metscan lease
18 termination fees and undepreciated Metscan plant balances in this docket.

19 **Q. DO YOU HAVE ANY FURTHER RECOMMENDATIONS?**

20 A. Yes, I recommend that the Department set the Bay State allowed return on
21 equity at the low end of the range of reasonable returns.

22 **Q. PLEASE DISCUSS YOUR RECOMMENDATION TO SET THE ALLOWED RETURN AT**
23 **THE LOW END OF THE RANGE OF REASONABLE RETURNS.**

24 A. The return allowed to a regulated utility should reflect the quality of its
25 management, and the firm's commitment to public service. As I have discussed,

1 Bay State outsourced crucial safety functions, returning them to direct control
2 only when tragic consequences underscored the risk of such an approach. Later,
3 under NiSource management, Bay State has repeatedly failed to meet its public
4 service obligations in Massachusetts.

5 NiSource has failed to honor the commitments it made to the Department
6 when seeking authorization to take over Bay State. Shortly after taking over Bay
7 State, NiSource plunged itself into debt in order to pursue a strategic merger of no
8 benefit to Massachusetts consumers. As a result of the associated pressure to cut
9 its debt load, NiSource denied its Massachusetts subsidiary adequate staffing and
10 investment. NiSource failed to increase investments until the eve of a rate case,
11 and once a rate cap was lifted. As a result, call center performance, system
12 expansion, safety and reliability have been compromised. NiSource has also
13 dragged its feet on meeting its public service obligations to low-income
14 customers.

15 NiSource has leapt into new management fads, but seeks protection of
16 regulators from the risks if these ventures will not provide their promised benefits.
17 Thus, NiSource was an early adopter of Metscan technology, only to learn the
18 hard way that the technology was not suitable for its service territory, and had
19 become obsolete. Now again, NiSource is plunging into a massive outsourcing
20 project, at a time when the industry is reassessing the pros and cons of such deals.
21 So long as the consumer can be called upon to underwrite these ventures, either
22 through cost support or by being guinea pigs for adventures in service provision,

1 it would appear that NiSource will continue to experiment in such fashion, and
2 then demand that consumers absorb any negative consequences.

3 Only when risks become realities, or regulators crack down, or when the
4 Company needs the cooperation of regulators (as in the present rate case), does
5 the Company reverse course and address its staffing and investment needs for
6 Massachusetts. This pattern will persist, unless the Department sends a strong
7 message to the Company that it may not expose its Massachusetts consumers to
8 such risks. Setting the return on equity at the low end of the range of reasonable
9 estimates will demonstrate that poor management has consequences.

10 **Q. DOES THIS END YOUR TESTIMONY?**

11 **A. Yes.**